

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SARAH WITKOWSKI and
SCOTT WITKOWSKI,

Plaintiffs,

vs.

AMENDED COMPLAINT

Civil Action No. 1:16-cv-00856-
LJV-JJM

NIAGARA JET ADVENTURES, LLC,

Defendant.

The Plaintiffs Sarah Witkowski and Scott Witkowski, by and through their attorneys, The O'Brien Firm, P.C., as and for their Complaint against the Defendant Niagara Jet Adventures, LLC, hereby state and allege:

1. At all times hereinafter referenced, the Plaintiffs were and are individuals residing in the County of Erie and State of New York.
2. Upon information and belief and at all times hereinafter referenced, Defendant Niagara Jet Adventures, LLC was and is a domestic limited liability company formed, existing, and operating under the laws of the State of New York with a primary place of business located at 555 Water Street, in the County of Niagara and State of New York.
3. At all times hereinafter referenced, the Plaintiff exercised due care.
4. On or about July 15, 2016, Plaintiff Sarah Witkowski was injured while she was a passenger on the defendant's boat.
5. Upon information and belief and at all times hereinafter referenced, the

Defendant was and is a company offering boat trips on the lower Niagara River.

6. Upon information and belief and at all times hereinafter referenced, on July 15, 2016, the Defendant owned and operated a power boat which took paying customers up and down the Niagara River.

7. Upon information and belief, the seats on the Defendant's boat for paying customers were designed in such a fashion to allow one passenger per seat.

8. Upon information and belief, the agents, employees and/or servants of the Defendant were aware that only one passenger was to be seated in each passenger seat.

9. Upon information and belief, on July 16, 2016, as Sarah Witkowski was seated on the Defendant's boat, an agent, employee or servant of the Defendant negligently and/or recklessly seated an additional person in her row, resulting in Sarah Witkowski unnecessarily being exposed to harm or injury due to the overcrowding and the reckless piloting of the boat by the ship's captain.

10. On that same boat trip and upon information and belief, the captain of the boat recklessly performed a series of abrupt turns even though he knew that Sarah Witkowski was sitting in a row that was overcrowded.

11. As a result of the overcrowding and the abrupt turns, Sarah Witkowski sustained herniated intervertebral discs in her neck and back and required surgery.

AS AND FOR A FIRST CAUSE OF ACTION

12. The Plaintiffs repeats and realleges the allegations contained in Paragraphs "1" through "11" as if more fully stated herein.

13. Due to the negligence of the Defendant, Plaintiff Sarah Witkowski sustained injuries while on the Defendant's boat.

14. Due to the negligence of the Defendant, Plaintiff Sarah Witkowski was

caused to incur certain medical expenses and, upon information and belief, will incur medical expenses in the future.

15. Due to the negligence of the Defendant, Plaintiff Sarah Witkowski was caused to sustain pain and suffering and, upon information and belief, will continue to sustain pain and suffering in the future.

16. Due to the negligence of the Defendant, Plaintiff Sarah Witkowski was caused to sustain loss of enjoyment of life and, upon information and belief, will continue to sustain loss of enjoyment of life in the future.

17. Due to the negligence of the Defendant, Plaintiff Sarah Witkowski has suffered lost wages and, upon information and belief, will sustain lost wages or diminution of earnings in the future.

18. As a result of the foregoing, Plaintiff Sarah Witkowski has been damaged in an amount which exceeds the jurisdictional limit of all Courts of lower jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

19. The Plaintiffs repeats and realleges the allegations contained in Paragraphs "1" through "18" as if more fully stated herein.

20. At all times referenced herein, Scott Witkowski was and is the husband of Sarah Witkowski.

21. As a result of the negligence of the Defendant, Plaintiff Scott Witkowski has lost the support, services and consortium of his wife, Sarah Witkowski and has been damaged in an amount which exceeds the jurisdictional limits of all Courts of lower jurisdiction.

AS AND FOR A THIRD CASE OF ACTION

22. The Plaintiffs repeats and realleges the allegations contained in Paragraphs "1" through "21" as if more fully stated herein.

23. As a result of the willful and reckless behavior of the employees, agents and/or servants of the Defendant and the willful and reckless driving of the boat by the boat's captain, Plaintiff Sarah Witkowski sustained injury and damages as detailed in the foregoing Paragraphs of this Complaint.

24. As a result of the foregoing, Plaintiff Sarah Witkowski sustained medical expenses and, upon information and belief, will incur medical expenses in the future.

25. As a result of the willful and reckless conduct of the agents, employees and/or servants of the Defendant and the willful and reckless driving of the boat by the boat's captain, Plaintiff Sarah Witkowski was caused to sustain pain and suffering and, upon information and belief, will continue to sustain pain and suffering in the future.

26. As a result of the willful and reckless conduct of the agents, employees and/or servants of the Defendant and the willful and reckless driving of the boat by the boat's captain, Plaintiff Sarah Witkowski was caused to sustain loss of enjoyment of life and, upon information and belief, will continue to sustain loss of enjoyment of life in the future.

27. As a result of the willful and reckless conduct of the agents, employees and/or servants of the Defendant and the willful and reckless driving of the boat by the boat's captain, Plaintiff Sarah Witkowski was caused to sustain lost wages or diminution of earnings and, upon information and belief, will continue to sustain lost wages or diminution of earnings in the future.

28. As a result of the foregoing, Plaintiff Sarah Witkowski has been damaged in an amount which exceeds the jurisdictional limits of all Courts of lower jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION

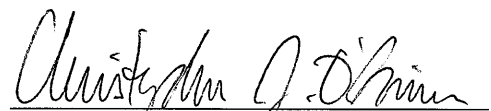
29. The Plaintiffs repeats and realleges the allegations contained in Paragraphs "1" through "28" as if more fully stated herein.

30. The Plaintiff Scott Witkowski was and is the husband of Plaintiff Sarah Witkowski.

31. As a result of the willful and reckless conduct of the agents, employees and/or servants of the Defendant and the willful and reckless driving of the boat by the boat's captain, employees and/or servants of the Defendant, Plaintiff Scott Witkowski has lost the support, services and consortium of his wife Sarah Witkowski and has been damaged in an amount which exceeds the jurisdictional limits of all Courts of lower jurisdiction.

WHEREFORE, the Plaintiffs seek judgment against the Defendant on all causes of action in an amount that exceeds the jurisdictional limits of all lower Courts, together with the disbursements and costs of this action.

DATED: Buffalo, New York
March 14, 2017



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